



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

CRS

Docket No: 1729-00

10 August 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 9 August 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 31 August 1974 at age 18. A special court-martial convened on 5 December 1975 and found you guilty of possessing, selling, introducing and transferring heroin. The court sentenced you to confinement at hard labor for three months, forfeitures of \$100 per month for six months, reduction in pay grade, and a bad conduct discharge. However, the bad conduct discharge was suspended for a year.

On 10 October 1977 you became an unauthorized absentee. A second special court-martial convened on 12 October 1977 and convicted you, in absentia, of an unauthorized absence of 511 days. The court sentenced you to confinement at hard labor for three months, forfeitures of \$265 per month for three months, and a bad conduct discharge. Subsequently, you were apprehended on 16 September 1981 and placed on appellate leave on 31 December 1981. On 16 August 1985 the bad conduct discharge was ordered executed and you were so discharged on that same day.

In its review of your application the Board carefully weighed all

potentially mitigating factors such as the contention that you were honorably discharged in 1980. However, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to your drug abuse and unauthorized absences totalling more than 64 months. In this regard, there is no evidence of record, and you have presented none, to show that you were honorably discharged in 1980. The Board also noted that the initial sentence to a bad conduct discharge was suspended, thus giving you an opportunity to earn a better discharge. However, you continued to commit offenses, which resulted in a second special court-martial from which you received a bad conduct discharge. Based on the foregoing, the Board concluded that no change to the discharge is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director